

# 1998 National Summary of Compliance for Public Water Systems on Indian Reservations

## INTRODUCTION

This section of the 1998 National Public Water Systems Compliance Report describes how the Environmental Protection Agency (EPA) and federally-recognized Indian tribes (tribes) are meeting the goal of ensuring that public water systems on Indian reservations provide safe drinking water.

## PUBLIC WATER SYSTEMS ON INDIAN RESERVATIONS

Tribes may apply for eligibility to receive primary enforcement responsibility (known as primacy) to administer the drinking water program provided they meet the requirements of Sections 1413 and 1451 of the Safe Drinking Water Act (SDWA). As of 1998, no tribe has received primacy. EPA, therefore, continues to administer the drinking water program in Indian country, including on Indian reservations.

A glossary of terms used in this report appears in Appendix A. A map of the areas covered by this report appears in Appendix C.

## PUBLIC WATER SYSTEMS IN ALASKA AND OKLAHOMA

Compliance figures for Alaska Native Villages and tribes in Oklahoma are not included in this section of the report; they can be found in the Alaska and Oklahoma state reports. In addition, it is possible that some other tribal systems are not included in this section; they can also be found in other state reports. The state reports do not, however, contain separate information on tribal public water systems. As a result, comprehensive information on these systems is not covered in either the tribal or state section of the report.

EPA plans to review whether information on public water systems serving Alaska Native Villages and tribes in Oklahoma, as well as any other tribal systems not currently addressed in

this section of the report, should continue to be included in state reports. EPA will address this issue in the next report.

## DATA QUALITY

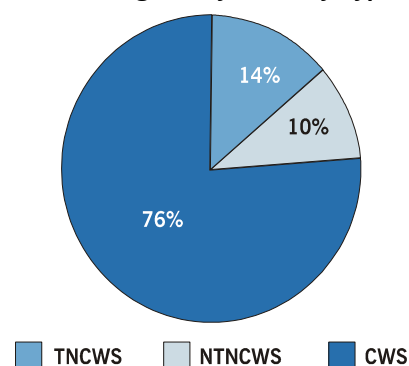
This report uses information from the Safe Drinking Water Information System/Federal System (SDWIS/FED). SDWIS/FED is the national database where EPA records information on public water systems on Indian reservations. Public water systems on Indian reservations are required to report laboratory data to EPA. EPA uses the information to determine compliance with the national primary drinking water regulations of SDWA.

This report also discusses the limitations in the data we use to measure our success and the steps we are taking to increase data reliability and completeness, as well as the Agency's compliance assistance, enforcement, and financial assistance programs. EPA plans to continue its data quality efforts during 2000 to ensure that SDWIS/FED contains complete and accurate information.

## FINDINGS

In 1998, 983 public water systems on Indian reservations served approximately 500,000 people during the course of their day or year.

Percentage of Systems by Type



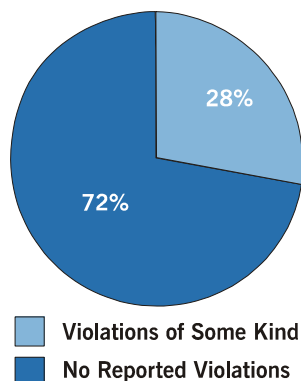
- 750 community water systems served more than 409,000 people in their primary residences.
- 141 transient non-community systems (schools and factories) served more than 72,000 people who passed through.
- 92 non-transient non-community systems (campgrounds and highway rest stops) served a constantly changing audience of more than 22,500 people.

Almost all public water systems on Indian reservations were small. These small systems provide drinking water to the majority of the public who drank water on Indian reservations.

- 98% of public water systems on Indian reservations serve 3,300 or fewer people. These 961 small systems served 68% of the people who received water from public water systems on Indian reservations.

SDWIS/FED records no violations for most public water systems on Indian reservations.

**Systems with Violations**



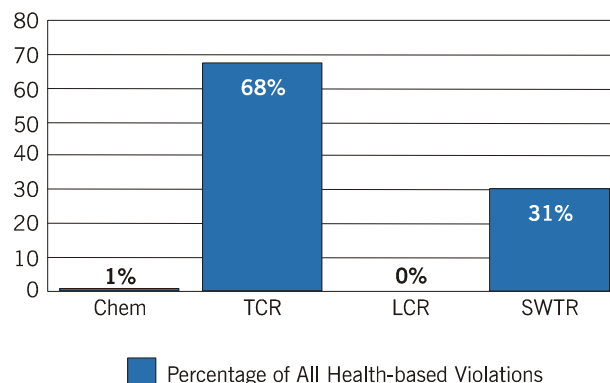
- 703 of 983 public water systems had no reported health-based or significant reporting violations.

94% of public water systems on Indian reservations reported no violations of a health-based drinking water standard in 1998.

- 115 health-based violations on Indian reservations were reported to SDWIS/FED in 1998. The Maximum Contaminant Level (MCL) for the Total Coliform Rule and the treatment technique requirement for the

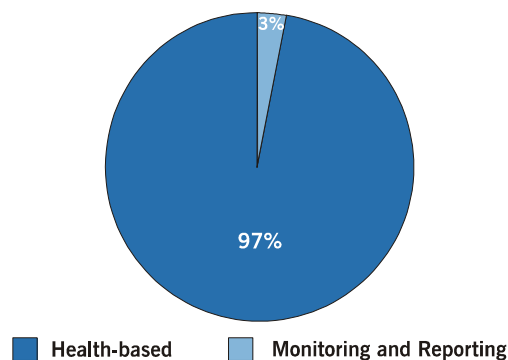
Surface Water Treatment Rule were the health-based standards most frequently violated.

**Percentage of Health-based Violations by Rule**



The vast majority of violations reported to SDWIS/FED in 1998 were for a public water system's significant failure to monitor and report, rather than for a health-based MCL or a treatment technique violation detected and reported.

**Type of Violation**



- Of the 4,012 violations reported to SDWIS/FED in 1998, 3,897 (97%) were significant violations of monitoring and reporting requirements. If a system did not monitor the quality of its water, it is impossible to know if it has violated health-based requirements.
- Public water systems on Indian reservations represent 0.6% of all public water systems in the United States but were responsible for 4% of all monitoring and reporting violations at public water systems in the United States reported to SDWIS/FED in 1998.

## COMPLIANCE ASSISTANCE AND ENFORCEMENT

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EPA uses multiple approaches to ensure public water systems on Indian reservations comply with SDWA regulations.

EPA's tribal compliance assistance program is designed to help maintain compliance with SDWA by building cooperative working relationships with utility managers, operators, other tribal environmental staff, and tribal elected officials. The program emphasizes information exchanges, operation assistance, and water quality monitoring.

EPA gives information and assistance directly to tribal public water system operators, utility managers, and owners through training sessions, newsletters, telephone support, and system visits. On-site technical assistance is provided by engineers and qualified staff who work with tribes to assess current compliance status, develop monitoring schedules and compliance plans, and conduct sanitary surveys. EPA coordinates many of these activities with other federal agencies, including the Indian Health Service and the Bureau of Reclamation. Coordination also occurs with non-governmental organizations and inter-tribal consortia, including the Native American Water Association, the Rural Water Association, and the Rural Community Assistance Corporation.

EPA is also responsible for initiating enforcement actions against owners or operators of public water systems on Indian reservations if a system is not in compliance with SDWA. In most cases, EPA relies on compliance assistance and informal enforcement actions to facilitate a tribally owned or managed public water system's return to compliance. When an enforcement action is appropriate, EPA can initiate administrative orders and refer civil and criminal cases to the Department of Justice which results in either settlement agreements or litigation. The "EPA Policy for the Administration of Environmental Programs on Indian Reservations" (EPA Indian Policy) guides the Agency's approach to bringing civil administrative or judicial enforcement actions against systems owned or managed by tribal governments.

Table 1 shows the number of compliance assistance and enforcement activities directed

toward public water systems on Indian reservations. The information is drawn both from SDWIS/FED and separate records maintained by some EPA Regions. EPA Regions are only required to report to SDWIS/FED on violations and formal enforcement actions related to the resolution of violations of SDWA; these data are, however, currently incomplete. Some EPA Regions maintain separate records that contain information on both formal and informal enforcement actions and compliance assistance activities. These records indicate that the largest numbers of enforcement actions are federal voluntary reminder notices. Public water systems are required to monitor for 89 different contaminants and conduct analyses using a variety of EPA-approved analytical methods. Where a system fails to perform some or all of the required monitoring, a separate monitoring and reporting violation is recorded for each missed contaminant.

## FINANCIAL ASSISTANCE

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EPA provides financial assistance to public water systems on Indian reservations to help build tribal capacity to operate and maintain systems in compliance with SDWA. Capacity building is a long-term solution which focuses on giving tribes grants, training, and technical assistance as they develop their environmental programs. EPA's own General Assistance Program builds tribal capacity by providing grants to develop core environmental activities, including drinking water programs.

EPA also distributes funds for specific drinking water program priorities. About \$2.7 million (3% of the set-aside of public water systems appropriations) was allotted for implementing the Tribal Public Water System Supervision Program in fiscal year 1998. Through this program, EPA awarded a number of grants to tribes and tribal organizations to address various aspects of the drinking water program.

In addition to the 3% set-aside, EPA received \$3.8 million in fiscal years 1998 and 1999 for drinking water needs on Indian lands. EPA is focusing on activities such as:

- Tribal Public Water System Supervision Program primacy workshops to provide general outreach material to all tribes eligible

**TABLE 1: NUMBER OF PUBLIC WATER SYSTEMS  
ON TRIBAL LANDS WITH VIOLATIONS BY RULE**

<b>PUBLIC WATER SYSTEMS AND VIOLATIONS</b>	<b>TOTAL NUMBER</b>
Total Number of Public Water Systems	983
Total Number of Public Water Systems with Violations	280
Total Number of Violations	4,012

<b>COMPLIANCE AND ENFORCEMENT ACTIVITY</b>	<b>SDWIS/FED</b>	<b>SUPPLEMENTAL REGIONAL DATA</b>
Federal Administrative Order issued	9	25
Federal Compliance Achieved	89	3
Federal 1431 (Emergency) Order	0	1
Federal Voluntary Reminder Notice	71	2,060
Federal Compliance Meeting Conducted	7	426
Federal Technical Assistance Visit	4	465
Federal Site Visit (including sanitary surveys)	4	167
Federal Public Notification Requested	21	2
Federal Public Notification Issued	0	26
Federal Public Notification Received	26	7
Federal Boil Water Order	0	13

to pursue primary enforcement responsibility;

- capacity development projects;
- source water and wellhead protection projects;
- development of a voluntary operator certification program for tribes; and
- provision of operator training and certification to tribal operators.

In the 1996 Amendments to SDWA, an infrastructure funding program was established to improve water supplies. Each year, 1.5% of the appropriation for the national Drinking Water State Revolving Fund program is set aside for American Indian communities and Alaska Native

Villages. The initial set-aside from the 1997 appropriation amounted to \$19.25 million, an additional \$10.87 million was set-aside from the 1998 appropriation, and \$11.625 million was set-aside from the 1999 appropriation. In 1998, EPA provided approximately \$7 million to the State of Alaska that targeted drinking water infrastructure improvement for rural and Native villages. A small portion of these funds were used to support technical assistance and training. Furthermore, EPA funds tribal multi-media compliance and enforcement programs, including drinking water system activities.

Finally, technical assistance and training for small tribally owned or operated public water systems is also provided. For example, EPA currently has two cooperative agreements with the National Rural Water Association to provide

support to small public water systems, including those owned or operated by tribes.

## CONCLUSIONS AND RECOMMENDATIONS

In 1998, EPA Regions reported that 72% of the public water systems on Indian reservations did not report a violation of a health-based standard or a significant reporting violation. This represents an overall increase from 1997 when only 46% of facilities did not report a violation of a health-based standard or a significant reporting violation.

However, EPA is concerned with the number of reported violations of monitoring and reporting requirements. During 1998, there was a dramatic increase in the total number of significant violations of monitoring and reporting requirements on Indian reservations. EPA believes there are two major reasons for this dramatic increase. First, EPA expanded its efforts to revise existing information in SDWIS/FED and collect compliance data. Second, 1998 was the end of a three-year monitoring period for chemical contaminant monitoring by systems, including a number of new chemical contaminant monitoring requirements for small systems.<sup>1</sup> This report is, therefore, composed of data on chemical monitoring violations that occurred in 1998 and other chemical monitoring violations for the three-year monitoring period of 1996 through 1998.

EPA continues to implement two primary recommendations from the 1996 and 1997 reports: (1) improve collection and maintenance of compliance data for public water systems on Indian reservations; and (2) place a priority on decreasing the number of monitoring and reporting violations to gain a full understanding of whether health-based violations exist. EPA will accomplish these recommendations — and also respond to concerns about the increases in the number of monitoring and reporting violations — by:

- continuing to work cooperatively with tribal governments and their utility managers and

water system operators to improve compliance with monitoring and reporting requirements and for health-based standards, particularly the Total Coliform Rule and Surface Treatment Water Rule;

- increasing EPA's field presence, conducting more frequent sanitary surveys, and engaging in targeted technical and compliance assistance and enforcement;
- improving the inventory of public water systems on Indian reservations;
- improving the collection and entry into SDWIS/FED of compliance and enforcement information in a timely manner to avoid keeping multiple records;
- continuing to support and encourage capital improvements for public water systems to improve the infrastructure (and therefore compliance with SDWA requirements) of public water systems on Indian reservations, including grants provided under the Drinking Water Tribal Infrastructure Improvement Program; and
- focusing on small system compliance issues and the development of small system capacity.

Ultimately, EPA will continue to respond to compliance and enforcement issues at public water systems owned or managed by tribal governments in a manner consistent with SDWA and the EPA Indian Policy. As such, EPA will emphasize compliance assistance and the use of informal enforcement responses as the first step in returning these systems to compliance. Where compliance assistance is ineffective or a significant threat to human health or the environment exists, EPA will take appropriate steps to return systems to compliance, including formal enforcement actions.

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<sup>1</sup> Systems must monitor for most contaminants one time within a standard three-year compliance period.

